

APPEAL NO. 020791
FILED APRIL 22, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 11, 2002. The hearing officer determined that the appellant's (claimant) impairment rating (IR) was zero percent as assessed by the designated doctor whose report was not contrary to the great weight of the other medical evidence.

The claimant appealed, contending that her IR should be four percent as assessed by her treating doctor and that the designated doctor was biased. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable right upper extremity injury on _____, and that she had a right De Quervain's release on June 14, 2000, and a right carpal tunnel release on February 2, 2001. The parties stipulated that the claimant reached maximum medical improvement (MMI) on May 2, 2001.

Dr. G, the claimant's initial treating doctor and the June 2000 surgeon, in an August 16, 2000, report certified MMI on that date with a zero percent IR. That IR was disputed and Dr. A was appointed as the designated doctor. In a report dated November 10, 2000, Dr. A certified MMI on that date with a zero percent IR.

The claimant had her second surgery on February 2, 2001. Dr. T, the claimant's present treating doctor and the February 2001 surgeon, on a report dated March 29, 2001, certified MMI on that date with a four percent IR based on a seven percent impairment from Table 11 (impairment due to loss of strength) and Table 14 (Specific Unilateral Spinal Nerve Impairment Affecting the Upper Extremity) of the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association. Subsequently, a benefit review officer (BRO) asked Dr. A if the February 2001 surgery changed his opinion. Dr. A replied by letter dated July 30, 2001, stating that he did not think the claimant had carpal tunnel syndrome (CTS) and that the CTS surgery should not be rated. The BRO, by letter dated October 25, 2001, again wrote Dr. A, advising Dr. A that the carrier had accepted the CTS and requesting that the claimant be reexamined. Dr. A reexamined the claimant and in a Report of Medical Evaluation (TWCC-69) and narrative, both dated November 13, 2001, certified MMI and again assessed a zero percent IR. Testing and muscle strength was determined to be normal. Dr. A went on to comment:

It appears that her [IR] that [Dr. T] gave her in March of 2001, about 6 weeks after her surgery has improved and is not a permanent impairment after all.

In fact, today I could not find any true findings to give the examinee any permanent impairment in regard to her right wrist.

The claimant's argument is that she is entitled to some impairment because she has had two surgeries and is "not at 100%."

The hearing officer did not err by giving presumptive weight to the designated doctor's report, or in finding that the great weight of contrary medical evidence was not against his report. The report of a designated doctor appointed by the Texas Workers' Compensation Commission is given presumptive weight. Section 408.125(e). The amount of evidence needed to overcome the presumption, a "great weight," is more than a preponderance, which would only be greater than 50%. See Texas Workers' Compensation Commission Appeal No. 92412, decided September 28, 1992. Medical evidence, not lay testimony, is the evidence required to overcome the designated doctor's report. Texas Workers' Compensation Commission Appeal No. 92164, decided June 5, 1992. We have reviewed the record and cannot agree that the evidence against the designated doctor's report amounts to a "great weight" or that Dr. A was biased.

Accordingly, we affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**DOROTHY LEADER
1999 BRYAN ST.
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Michael B. McShane
Appeals Judge